

Message Text

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C O N F I D E N T I A L PANAMA 5164

EXDIS

E.O. 11652: GDS

TAGS: ETRD,PN

SUBJECT: BANANA TAX PROBLEM

1. THE "BANANA WAR" IS OVER. PANAMANIAN AND UNITED BRANDS NEGOTIATORS HAMMERED OUT FINAL AGREEMENT LAST NIGHT. PRODUCTION IS TO BEGIN TODAY WITH FIRST SHIPMENT PLANNED BY END OF WEEK. DETAILS OF AGREEMENT COVERED IN SUBSEQUENT PARAGRAPHS WITH FULL TEXT TO FOLLOW LATER TODAY IN SEPTEL. WHILE NOT ENGAGING IN NEGOTIATIONS DIRECTLY, I SPENT MOST OF WEEKEND AND ALL DAY YESTERDAY ACTING AS "HONEST BROKER" BETWEEN TWO NEGOTIATING TEAMS. BOTH SIDES EXPRESSED CONSIDERABLE GRATIFICATION OVER ROLE WE PLAYED AND HEAD OF PANAMANIAN DELEGATION SAID AGREEMENT WOULD NOT HAVE BEEN POSSIBLE WITHOUT OUR INVOLVEMENT. IMPORTANT THING IS THAT BARGAIN WAS STRUCK AND ANTI-U.S. ELEMENTS HAVE BEEN DEPRIVED OF HIGHLY VOLATILE ISSUE.

2. CENTRAL ELEMENTS IN AGREEMENT ARE THE FOLLOWING:

A) PRODUCTION TO COMMENCE IMMEDIATELY WITH FIRST SHIPMENT EXPECTED LATER THIS WEEK;

B) NEW TAX LEVEL ON SHIPMENTS HENCEFORTH WILL BE THAT AGREED TO BY PARTICIPANTS IN MEETING OF PRODUCING AND EXPORTING COUNTRIES TO BE HELD HERE ON 17 SEPTEMBER. (NOTE: ASSUMPTION IS THAT LEVEL WILL BE AT OR CLOSE TO 25 CENTS ALREADY IN EFFECT IN HONDURAS AND GUATEMALA WITH ANNUAL INCREMENTS RAISING IT IN THREE TO FIVE YEARS TO 50 CENTS).

C) DIFFERENCE BETWEEN NEW TAX LEVEL AND ONE DOLLAR WILL BE DEPOSITED BY COMPANY IN SPECIAL FUND TO BE USED AS PART OF SETTLEMENT

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SHOULD PANAMA DECIDE TO BUY PROPERTIES OR PURCHASE PARTIAL EQUITY

IN PRODUCING COMPANIES.(NOTE: UNDER TERMS IN (B) AND (C) COMPANY CAN CLAIM IT PAYING PANAMA A TAX NO HIGHER THAN PAID OTHERS AND PANAMA CAN CLAIM IT GETTING GROSS PAYMENT OF ONE DOLLAR A BOX.) D) COMPANY WILL PAY WITHIN ONE WEEK HALF OF BACK TAXES OWED FOR SHIPMENTS PREVIOUS TO STOPPAGE OF PRODUCTION JULY 24. THAT MEANS PROMPT PAYMENT OF 1.8 MILLION DOLLARS. OTHER HALF WILL BE PAID OVER TIME UNDER ARRANGEMENT TO BE WORKED OUT BETWEEN COMPANY AND MINISTRY OF FINANCE. SECOND 1.8 MILLION WILL ALSO GO INTO SPECIAL FUND (SAME AS IN (C) ABOVE) WHICH WILL BE USED AS PARTIAL PAYMENT FOR PURCHASE OF PROPERTIES OR OTHER EQUITY BY PANAMA IN PRODUCTION FACILITIES.

E) BOTH COMPANY AND GOVERNMENT RESERVE ALL LEGAL CLAIMS REGARDING TAX PAYMENTS IN CASE ISSUE IS TAKEN BY EITHER TO COMPETENT COURT.

F) COMPANY AGREED TO ENTER NEGOTIATIONS IMMEDIATELY WITH INDEPENDENT PRODUCERS (REPRESENTING ABOUT 20 PERCENT OF PANAMA'S TOTAL BANANA PRODUCTION)WITH VIEW TO RAISING THE PRICE PER BOX PAID BY COMPANY. GOVERNMENT CAN HAVE REPRESENTATIVE PRESENT AT THESE NEGOTIATIONS.

G) GOVERNMENT WAIVED ALL CLAIMS WITH REFERENCE TO ANY TAXES OR DAMAGES BASED ON LOSSES SUFFERED OR ALLEGED AS RESULT OF STOPPAGE OF EXPORTS.

H) BOTH PARTIES AGREED TO START TALKS SOON CONCERNING POSSIBLE SALE OF PROPERTIES OR OTHER WAYS IN WHICH PANAMA'S INTERESTS CAN BE REPRESENTED WITH REGARD TO COMPANY DECISIONS ON PRODUCTION AND EXPORTS. THIS ARTICLE USES PHRASE "WITH A VIEW OF CHANGING THE FORM OF THE PRESENCE OF THE COMPANY."

I) COMPANY AGREED TO PAY ALL "VALID" LABOR CLAIMS WITH REGARD TO ITS OWN WORKERS AND THOSE OF INDEPENDENT PRODUCERS.

3. NEGOTIATORS ON PANAMANIAN SIDE WERE: AGRICULTURE MINISTER GERARDO GONZALEZ, LAYER JAIME ARIAS, VICE MINISTER OF COMMERCE JULIETA FABREGA DE LORENZO. UNITED BRANDS TEAM COMPOSED OF ELI BALCK, HARVEY JOHNSON AND GEORGE GALLOP. AGREEMENT APPROVED BY TORRIJOS AND TOP LEVEL OF GOVERNEMENT LATE YESTERDAY. ANNOUNCEMENT TO BE MADE TODAY BY COMMERCE MINISTER MANFREDO.

4. AT REQUEST OF BOTH DELEGATIONS, I SAT IN AS "WITNESS" WHEN FINAL AGREEMENT WAS READ AND APPROVED BY BOTH SIDES.

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